Nutter

Direct Line: 617-439-2815
Fax: 617-310-9815
E-mail: mleon@nutter.com

February 9, 2009

Philip Giudice, Commissioner
Department of Energy Resources
100 Cambridge Street
Boston, MA 02114
Attention: Courtney Feeley Karp

Dear Commissioner Giudice:

I am writing on behalf of the Lowell Cogeneration Company Limited Partnership, the owner and operator of a 29 Megawatt cogeneration facility in Lowell, Massachusetts, to urge the inclusion of Renewable Portfolio Attributes for the thermal energy production of Combined Heat and Power ("CHP") facilities qualifying as low emission, advanced biomass Power Conversion Technologies under 225 CMR 14.05(1)(a)(7). The ability to generate proportionate credits for both the electric and thermal energy is essential to make conversion to renewable fuels viable for CHP facilities in Massachusetts.

The current version of the emergency regulations allows a CHP facility to qualify as both an RPS Renewable Generation Unit and an APS Alternative Generation Unit. 225 CMR 16.05(2)(d). The only way for CHP facility to qualify as a Renewable Generation Unit is to convert the facility to run on eligible bio-fuels and meet the new emission standards specified in the RPS regulations. However, if a CHP facility qualifies as an RPS Renewable Generation Unit, it is only eligible to receive RPS Attributes for the electricity it produces and not for the Useful Thermal Energy it generates. Unfortunately, we have found that the costs of converting and operating a RPS eligible CHP facility are prohibitive without the inclusion of RPS Attributes for thermal production. We believe strongly that the inclusion of thermal energy from CHP facilities in the RPS is required to aid the conversion to bio-fuels. There are over 100 CHP facilities in the Commonwealth and our conversations indicate that the lack of Attributes for Useful Thermal Energy will be a major disincentive from conversion to renewable fuels for most facilities.

The thermal energy produced at a CHP facility is entirely recycled energy and as such is exactly the type of energy production the Green Communities Act should be supporting. Steam created by generation of electricity that is not recycled to provide Useful Thermal Energy to a customer will be condensed through some heat rejection means to the atmosphere and completely wasted. Stack losses and waste heat rejected into the atmosphere are reduced from approximately 70% in conventional power plants to as little as 10% in CHP facilities. These environmental benefits exist even before factoring in the substantial environmental gains

obtained through conversion to eligible bio-fuels. Clearly, providing incentives to CHP facilities for their conversion to renewable technology meets the fundamental goals of the Green Communities Act to reduce energy costs, promote the development of renewable energy, and stimulate the clean energy industry in Massachusetts.

Accordingly, eligible CHP facilities, qualified under RPS Class I, 225 CMR 14.05, should be able to generate RPS Attributes on thermal generation in a similar fashion to that which is available under the APS program. We believe, however, that the use of steam that would otherwise be wasted should be incentivized at levels greater than currently proposed to take advantage of energy that will be readily available while reducing direct heat rejection to the atmosphere. The exact formula of the calculation should be established after consultation with CHP facilities examining the financial limitations placed on conversion to renewable technologies. As currently drafted the RPS program fails to recognize the importance of thermal generation to CHP facilities and thus, excludes one of the most efficient power generation systems in use today from a key component of the Commonwealth's renewable energy incentives.

Our facility alone has the potential to supply energy to multiple end users in the revitalized Hamilton Canal District area of Lowell. We are currently in discussions for steam energy delivery with public and private facilities, including the new Lowell courthouse complex, a residential development currently underway in the district, commercial customers, a higher education campus, and the City of Lowell itself. Most of these customers can be served by existing supply infrastructure. As you can see the ability of our facility to operate on renewable fuels will have a significant benefits to the increased use of sustainable energy to the entire district.

Your department has done considerable work on the enormous task of moving the Commonwealth toward a future of energy efficiency and sustainability and should be applauded for your efforts to date. We appreciate the opportunity to comment on these proposed regulations and look forward to working with you in the future. We plan on submitting a separate letter to you regarding the CHP Program in the Alternative Energy Portfolio Standards prior to the comment deadline of February 19.

Very truly yours,

Michael A. Leon SGO

cc (by email): Mr. David Hughes, Morris Energy Group

Mr. Kevin Foley, Lowell Cogeneration Company LP
Mr. Brent McDonald, Nutter, McClennen & Fish LLP
Mr. Stuart G. O'Brien, Nutter, McClennen & Fish LLP